Supreme Court, U.S.
FILED
JAN 28 1986
JOSEPH F. SPANIOL, JR.
CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1985

NO. _____

JEREMY MYER,

Petitioner,

v.

PACIFIC FEDERAL SAVINGS
AND LOAN ASSOCIATION,

Respondent.

SUPPLEMENTAL APPENDIX TO PETITION FOR WRIT OF CERTIORARI TO THE STATE OF CALIFORNIA SUPREME COURT

Part 2 of 4

JEREMY MYER
16783 Beach Boulevard
Huntington Beach, CA 92647
714/841-8104
Petitioner, In Pro Se

IN THE SUPERIOR COURT
OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ORANGE

JEREMY MYER, Petitioner,	)	
v.	)	Civil Action No. 42-14-46
THE MUNICIPAL COURT OF THE NORTH ORANGE COUNTY JUDICIAL DISTRICT, Respondent,	)	(Munic. Ct. No. A 73032)
PACIFIC FEDERAL SAVINGS AND LOAN ASSOCIATION, Real Party in Interest.	)	

NOTICE OF MOTION FOR ORDER FOR ABATEMENT OF MUNICIPAL COURT PROCEEDINGS OR IN THE ALTERNATIVE STAY OF THE MUNICIPAL COURT PROCEEDINGS;

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF;

DECLARATION
(CCP Secs. 430.10 (a) and (c), 597)

Date: June 28, 1984 Dept: 23

TO THE MUNICIPAL COURT..., Respondent, PACIFIC..., Real Party in Interest, and to LINDA S. NUNEZ, attorney of record for Real Party in Interest:

PLEASE TAKE NOTICE THAT,...[Myer]

will move the Court for an Order for the Abatement of the Municipal Court Proceedings, or in the alternative, the Stay of the Muncipal Court Proceedings..., on the grounds that the Respondent Court had no jurisdiction of the subject of the cause of action and that there is another action pending between the same parties (and others) on the same subject matter (CASE NO. 41-72-38, Myer v. Ragland, Superior Court, Orange County, California). ....

...[Myer] seeks appropriate relief hereby from the Respondent Municipal Court Unlawful Detainer action.

....

Dated: June 1, 1984.

Jeremy Myer
Petitioner, In Pro Per

IN THE SUPERIOR COURT
OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ORANGE

JEREMY MYER, Petitioner,	)	
v.	)	Civil Action No. 42-14-46
THE MUNICIPAL COURT OF THE NORTH ORANGE COUNTY JUDICIAL DISTRICT, Respondent,	)	(Munic. Ct. No. A 73032)
PACIFIC FEDERAL SAVINGS AND LOAN ASSOCIATION, Real Party in Interest.	)	

MEMORANDUM OF POINTS AND AUTHORITIES
IN SUPPORT OF MOTION FOR
ORDER FOR ABATEMENT OF
MUNICIPAL COURT PROCEEDINGS
OR IN THE ALTERNATIVE STAY OF
MUNICIPAL COURT PROCEEDINGS

(CCP Secs. 430.10 (a) and (c), 597)

Date: June 28, 1984 Dept: 23

I

INTRODUCTION & BACKGROUND

....

4. [Myer] is seeking appropriate relief from the Unlawful Detainer action ...via this MOTION FOR ORDER FOR ABATE-

MENT OF MUNICIPAL COURT PROCEEDINGS OR IN THE ALTERNATIVE STAY OF MUNICIPAL COURT PROCEEDINGS. In summary, [Myer's] position is based on the following:

(a) [Myer] is the valid and proper purchaser of the subject property at the Trustee's Sale on October 28, 1983, and, as such, he owns the subject property and his is a claim to the title.

(b) On November 30, 1983, [Myer] filed suit against [Pacific] (and others) to effect his claim of purchase and ownership, among other things....CASE NO. 41-72-38 in the Superior Court....

(c) On December 9, 1983, [Myer] caused to be recorded, filed with the Superior Court, and caused to be served a NOTICE OF PENDING ACTION (CCP Sec. 409) as part of...CASE NO. 41-72-38.

(d) [Myer's] purchase (as well as his court action) pre-dated the Unlaw-

ful Detainer action which was filed in the Respondent Court on December 19, 1983, and [Myer] maintains that service of said action (about one week later) was insufficient and improper.

(e) [Myer's] purchase, ownership and claim to the title then give him THE RIGHT TO THE POSSESSION of the subject property. It is this RIGHT OF POSSESSION of [Myer's], among other things, which invalidates the Unlawful Detainer action.

(f) Due to [Myer's] purchase, ownership, and claim to the title of the subject property, Respondent Court had and has NO JURISDICTION to have effected any proceedings or decision other than to have quashed, abated, or in another way nullified the Unlawful Detainer...since, where title is the ultimate issue, a Municipal Court has NO JURISDICTION....

(g) Due to various insufficiencies of service of the SUMMONS AND COMPLAINT and the THREE-DAY NOTICE TO QUIT, the lack of any appropriate landlord/tenant relationship, and related issues, there was no legal or lawful basis upon which the Unlawful Detainer could proceed or remain at bar.

(h) [Myer] clearly challenged the jurisdiction of Respondent Court to proceed on the above grounds and related issues, but Respondent both assumed jurisdiction, without proving same once it had been challenged, AND also decided against [Myer].

(i) ...yet Respondent recorded a decision in favor of [Pacific] AFTER SEVERAL ATTEMPTS of [Myer] to be heard properly on the issues.

....

(n) By this MOTION...[Myer] is

seeking appropriate relief from the Unlawful Detainer action.

5. Judicial Notice is to be taken of the Municipal Court records of CASE NO. A 73032 and the Superior Court records of CASE NO. 41-72-38, as well as the records filed...in this CASE...42-14-46.

II

THE COURT HAS NO JURISDICTION OF THE SUBJECT OF THE CAUSE OF ACTION ALLEGED (CCP Sec. 430.10 (a))

6. ...

> ...homeowners cannot be evicted, consistent with due process guarantees, without being permitted to raise the affirmative defenses which if proved would maintain their possession and ownership. (Asuncion v.Superior Court (1980) 108 Cal.App.3d 141,146; 166 Cal.Rptr. 306)

And since: ...title to the property is inevitably in issue in this unlawful detainer action,... the action is not within the jurisdiction of the municipal court. (Asuncion v. Superior Court supra, at 146.)

THEN: [The] court has no jurisdiction to hear or determine a case where the type of proceeding or the amount in controversy is beyond the jurisdiction defined for that particular court by statute or constitutional provision. Abelleira v. District Court of Appeal (1941) 17 Cal.2d 280, 288)

In recording and filing the NOTICE OF PENDING ACTION as part of his Orange County Superior Court suit, as well as causing it to be served (prior to the Unlawful Detainer action), [Myer] placed the subject property immediately under the jurisdiction and control of the Superior Court: the Respondent Court was, in actuality, ex-jurisdiction said property for the Unlawful Detainer action:

> A lis pendens is for the purpose of giving notice of the jurisdiction or control which the court acquires over property involved in a suit pending the continuance of the action. Washington Dredging & Improvement

Co. v. Kinnear et al. (1901)
64 Pac.Rptr. 522.

The Ohio Supreme Court effectively upheld that the doctrine of lis pendens has long been established and recognized as the general law of the land upon the broad public policy of maintaining the status quo of rights and interests in property involved in litigation, not only as between the parties thereto but as to third parties having conflicting interests, until the action pending has been fully adjudicated:

....
(Cook et al. v. Mozer (1923)
140 N.E. 590, 592.)

III

THERE IS ANOTHER ACTION PENDING BETWEEN THE SAME PARTIES ON THE SAME CAUSE OF ACTION
(CCP Sec. 430.10(c), 597)

7. Ultimately, the ownership issue of the subject property must be resolved.

That is, Orange County Superior Court CASE NO. 41-72-38 (MYER v. RAGLAND, et al., including [Pacific] as a defendant) must be fully adjudicated, the results of which will determine the validity of an unlawful Detainer action AT THAT TIME: if [Myer] prevails in that case, then the Unlawful Detainer action...will prove to have been both premature and a harassment (in the least); if MYER doesn't prevail, THEN the Unlawful Detainer will be appropriate if the subject premises are not surrendered at that time. In either event, the Unlawful Detainer action is premature.

> The controlling rule in this case, however, is that the pendency of another action growing out of the same transaction...is a ground for abatement of the second action but never for abatement of the first. (Citations) The underlying theory of the plea of another action pending is that the <u>first</u> action will normally be an ample remedy, and the <u>second</u> action...is

> therefore unnecessary and vexatious. (Our italics.) (Citations) [Italics replaced with underlines] (California Union Ins. Co. v. Trinity River Land Co. (1980) 105 Cal.App.3d 104, 108-109; 163 Cal.Rptr. 802)

NOTE: [Myer] claims to be the purchaser and owner of the subject premises. Case citations which refer to words such as "tenant" and the like should not be construed that [Myer] places himself in such a status. Such citations are used to exemplify [Myer's] stand on the issues, and will not necessarily reflect [Myer's] true status due to the nature of ALL of the issues.

IV

GROUNDS FOR ABATEMENT OR STAY OF MUNICIPAL COURT PROCEEDINGS

8. The prior suit in the Superior Court (CASE NO. 41-72-38) is ground for abatement of the action in the Respondent Court:

> It is well settled in California that the pendency of a prior action based upon the same cause, contested by the same parties and considered in the same jurisdiction, is ground for abatement of the second action.
> Hanrahan v. Superior Court

(1947) 81 Cal.App.2d 432, 435;
184 P.2d 157.

[Myer's] establishment of purchase or ownership via said Superior Court action would give him the RIGHT OF POSSESSION, and would preclude his 'ejectment':

> No...California decision...prohibits a tenant from interposing a defense which...directly relate[s] to the issue of possession and which, if established, would result in the tenant's retention of the premises.
> Green v. Superior Court (1974)
> 10 Cal.3d 616, 633;
> 111 Cal.Rptr. 704; 517 P.2d 1168.

Thus, if [Myer] establishes his ownership he cannot be removed, and:

> Where the rights of the parties to the second action cannot be properly determined until the questions raised in the first action are settled the second action should be stayed.
> Simmons v. Superior Court
> (1950) 96 Cal.App.2nd 119, 130;
> 214 P.2d 844)

....

V

THE BASIS AND PURPOSE OF THE RULE
AS TO PRIOR PENDING ACTIONS

9. Until the first action in Superior Court is settled, with its attendant purchase and ownership issues, the Unlawful Detainer action is premature, to say the least....

> The rule which forbids a later action in the same state between the same parties involving the same subject matter rests upon principles of wisdom and justice, to prevent vexation, oppression and harassment, to prevent unnecessary litigation, to prevent a multiplicity of suits,---in short, to prevent two actions between the same parties involving the same subject matter from proceeding independently of each other. (Simmons v. Superior Court (1950) 96 Cal.App.2d 119, 124-125; 214 P.2d 844)

VI

SUMMARY & CONCLUSION

10. [Myer] maintains that he purchased the subject property at the

Trustee's Sale on October 28, 1983, in full compliance with the terms and conditions of said sale. He brought suit in the Superior Court to press his claims prior to the Unlawful Detainer action. The records clearly establish that Respondent Court has and had no jurisdiction to have proceeded to any conclusion of decision against [Myer]. Such lack of jurisdiction, as well as the other issues raised herein, including pendency of prior action, multiplicity of suits, and so forth, support [Myer's] position for an Order for Abatement of the Municipal Court Proceedings, or in the alternative, for a Stay of said proceedings.

> ...while the state does have a significant interest in preserving a speedy repossession remedy, that interest cannot justify the exclusion of matters which are essential to a just resolution of the question of possession at issue.

As the Court of Appeals observed in Abstract Investment Co. v. Hutchinson (1962) 204 Cal.App.2d 242, 249 [22 Cal.Rptr. 309]:

> Certainly the interest in preserving the summary nature of an action cannot out weigh the interest of doing substantial justice. To hold the preservation of the summary proceeding of paramount importance would be analogous to the 'tail wagging the dog.'

Green v. Superior Court (1974) 10 Cal.3d 616, 636; 111 Cal.Rptr. 704; 517 P. 2d 1168.

....

Dated: June 1, 1984.

Respectfully submitted,

Jeremy Myer
Petitioner, In Pro Per

IN THE SUPERIOR COURT
OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ORANGE

JEREMY MYER, Petitioner,	)	
v.	)	Civil Action No. 42-14-46
THE MUNICIPAL COURT OF THE NORTH ORANGE COUNTY JUDICIAL DISTRICT, Respondent,	)	
PACIFIC FEDERAL SAVINGS AND LOAN ASSOCIATION, Real Party in Interest.	)	(Munic. Ct. No. A 73032)

PURGATORY OATH AND DECLARATION OF
JEREMY MYER
FOR CLARIFICATION OF RECORD

Date: June 28, 1984 Dept: 23

STATE OF CALIFORNIA, COUNTY OF ORANGE

I, JEREMY MYER, do depose and say:

1. I am the Petitioner in the above-entitled action;

2. The purpose of this Declaration is to clarify the record of the Unlawful Detainer action, including [Myer's] claim of purchase, ownership, and possession of

the subject property.

NOTE: EXHIBITS as referenced herein, unless otherwise referenced, were filed with the Court and appropriately delivered to both Respondent and [Pacific's] attorney on January 31, 1984, as an EXHIBITS package of thirteen (13) EXHIBITS, "A" - "M", for a total of some eighty-five (85) pages....

[NOTE: For this Petition to the U.S. Supreme Court, extracts of the EXHIBITS are included as appropriate pleadings above.)]

3. A SUMMONS AND COMPLAINT for unlawful Detainer...was issued by [Pacific] (via attorney) against JOHN RAY WOELKE, and DOES 1 - 10, inclusive;....

4. The SUMMONS AND COMPLAINT was placed in [Myer's] mailbox at the site of the subject property on December 26, 1983 --- it was not mailed.

5. These facts of non-mailing and insufficiency of service were made known to Respondent via [Myer's] appropriate Court filings on December 29, 1983, as can be seen from EXHIBIT "B", DECLARATION and JUDICIAL NOTICE AND NOTICE TO THE COURT AND TO PLAINTIFF'S ATTORNEY, as follows:

(a) The DECLARATION, EXHIBIT "B", page 7 of 15, item 4, states that:

> The Unlawful Detainer SUMMONS, COMPLAINT, and VERIFICATION were left in Owner's mailbox on December 26, 1983,...

(b) The JUDICIAL NOTICE AND NOTICE TO THE COURT AND TO PLAINTIFF'S ATTORNEY, EXHIBIT "B", page 11 of 15, item III O, states that:

> On December 26, 1983, a copy of the SUMMONS and COMPLAINT--Unlawful Detainer was left <u>in the mailbox</u> of the subject property.

(c) The same JUDICIAL NOTICE, etc.

EXHIBIT "B", pages 12 and 13 of 15, item V, states that:

> JUDICIAL NOTICE IS TO BE TAKEN THAT: As part of this harassment and fraud,...the SUMMONS and COMPLAINT--Unlawful Detainer...were not received by Owner/Occupant of the subject property JEREMY MYER until December 26, 1983, in the mailbox of said property --- and not by mail.

6. On December 29, 1983, [Myer] filed with Respondent Court the following items (EXHIBIT "B", fifteen (15) pages):

	EXHIBIT "B" pages
NOTICE OF SPECIAL CONTINUING APPEARANCE	1 - 2
NOTICE OF MOTION AND MOTION TO QUASH SERVICE OF SUMMONS FOR LACK OF JURISDICTION; POINTS AND AUTHORITIES; DECLARATION; DATE: January 6, 1984	3 - 4
MOTION TO QUASH SERVICE OF SUMMONS AND COMPLAINT FOR LACK OF JURISDICTION	5
POINTS AND AUTHORITIES	6
DECLARATION	7

JUDICIAL NOTICE AND NOTICE TO THE COURT AND TO PLAINTIFF'S ATTORNEY . 8 - 14

VERIFICATION AND PROOF OF SERVICE BY MAIL 15

(a) With these items, [Myer] challenged the proceedings of the Unlawful Detainer action in, and the jurisdiction of, the respondent Court due to:

(1) [Myer's] purchase and ownership of the subject property precluded him from being a Defendant lawfully.

(2) [Myer's] occupancy and possession of the subject property.

(3) [Myer's] constructive and actual notices to [Pacific] of his purchase of and claim to the subject property - such notices being:

a) Letters dated October 28, 1983, and October 31, 1983.

b) [Myer's] suit against PACIFIC FEDERAL (and other Defendants)

filed and mailed on November 30, 1983, CASE NO. 41-72-38.

c) [Myer's] Notice of Pending Action recorded, filed with the Court, and mailed on December 9, 1983, CASE NO. 41-72-38.

(4) [Myer] made a "SPECIAL APPEARANCE" in Respondent Court to explain his purchase and ownership of the subject property.

(5) [Myer] challenged the perfection of title and certain items on the Unlawful Detainer COMPLAINT as being fraudulent, including item 9 thereon which attested to proper service of the Three-Day Notice to Quit.

(6) [Myer] challenged the sufficiency of the Three-Day Notice to Quit, as well as the sufficiency of its service: personal service was not made on JOHN RAY WOELKE or any appropriate

"DOE", which invalidates item 8 on the COMPLAINT;..., and there was no follow-up mail service; and there was no alternative posting AND follow-up mail service.

(b) Examples from the EXHIBIT "B" items which substantiate the above items are:

(1) Page 1, line 1, and line 3:

> JEREMY MYER, Owner, In Propria Persona.

(2) Page 1, line 17:

> I, JEREMY MYER, hereby appear SPECIALLY and NOT generally, and assert all of my RIGHTS...

(3) Page 1, line 28, and page 2, line 1:

> I respectfully object to the jurisdiction and/or authority of this Court both over the subject matter and/or my person.

(4) Page 3, lines 21- 23:

> PLEASE TAKE NOTICE THAT THE OWNER, JEREMY MYER, appears SPECIALLY and not generally to move this Court to QUASH the

Summons and Complaint for LACK OF JURISDICTION,...

(5) Refer to page 5:

MOTION TO QUASH SERVICE OF SUMMONS AND COMPLAINT FOR LACK OF JURISDICTION

(6) Page 6: POINTS AND

AUTHORITIES: JEREMY MYER is the owner of the subject Property. The JUDICIAL NOTICE...is included herewith by its reference.

(7) Page 7: DECLARATION:

JEREMY MYER...owner of the subject property....purchaser of the subject property at the foreclosure sale for same ...in possession of subject property...[no connection or application to JOHN RAY WOELKE]...Unlawful Detainer SUMMONS, COMPLAINT, and VERIFICATION were left in Owner's mailbox on December 26, 1983,... Unlawful Detainer is null and void, and inappropriate due to the foregoing...[MYER has] instituted action against Plaintiff (and others) in Superior Court, Orange County, on November 30, 1983, Case Number 41-72-38, regarding

the subject property... this Court does not have jurisdiction to proceed in this matter.

(8) Refer to page 8 which begins JUDICIAL NOTICE and continues the POINTS AND AUTHORITIES:

Page 9:

JEREMY MYER, purchased the subject property at the Trustee's Sale on October 28, 1983.

Pages 9 and 10:

"[References to letters from MYER noticing [Pacific] of his claims; replies acknowledging receipt of same; MYER's filing of suit on November 30, 1983, CASE 41-72-38 including copies of said correspondence; ample notice to PACIFIC FEDERAL]"

....

Page 11:

On December 9, 1983, Owner JEREMY MYER filed a NOTICE OF PENDING ACTION with the Orange County Recorder, and with the SUPERIOR COURT...to supplement CASE

41-72-38. [PACIFIC FEDERAL] was served...[Under the Doctrine of Lis Pendens, this maintains status quo with property jurisdiction now in Superior Court.]

On December 26, 1983, a copy of the SUMMONS and COMPLAINT--Unlawful Detainer was left in mailbox...

> [Reiterations by MYER of the invalidity of the Unlawful Detainer with reasons therefore.]

Page 12, lines 2 - 11:

[Pacific's] 'perfection of title' is a fraud.

Items 4 through 8 of the COMPLAINT -- Unlawful Detainer are invalid and fraudulent.

..no such [Three-Day Quit] notice has been received in the mail,...[CCP 1162 - insufficient service]

...no landlord/tenant relationship exists. [This, and proper service of ALL items, is necessary for jurisdiction to accrue to the Unlawful Detainer action and, therefore, to Respondent Court.]

Page 13, lines 3 - 6:

> ...the SUMMONS and COMPLAINT--Unlawful Detainer were...received in the mailbox...and not by mail.

(c) With these EXHIBIT "B" items, [Myer] respectfully demanded the Respondent Court to QUASH the Unlawful Detainer action.

7. [Myer] filed the MOTION TO QUASH, etc., with Respondent Court on December 29, 1983, with the hearing set for January 6, 1984,....

8. On January 4, 1984, [Pacific] filed with Respondent Court the following item (EXHIBIT "C", PAGES 1 - 8):

> PLAINTIFF'S MEMORANDUM OF POINTS AND AUTHORITIES IN OPPOSITION TO MOTION TO QUASH SERVICE OF SUMMONS AND COMPLAINT FOR LACK OF JURISDICTION.

9. Said item was received by [Myer] on January 8, 1984, two (2) days after the January 6, 1984, hearing. Thus [Myer]

had no means of addressing the issues raised therein at the hearing.

10. [Myer's] MOTION TO QUASH was denied by Respondent Court...on January 6, 1984, as supported by EXHIBIT "D", pages 1 - 2, (the CIVIL MINUTE SHEET and the NOTICE OF ORDER resulting from the January 6, 1984, hearing).

11. ....

12. [Myer] objects to the proceedings and their results.

13. EXHIBIT "F", pages 1 - 17, (NOTICE OF HEARING, JUDICIAL NOTICE) challenges these proceedings and results, and other items, in detail, including sufficiencies of service and jurisdiction.

NOTE: Exerpts are not made herein from EXHIBIT "F" since such would require copying most of it, adding to the volume herein unnecessarily. EXHIBIT "F", as others, is on file.

14. On January 13, 1984, [Myer] filed with Respondent Court the following items (EXHIBIT "F", seventeen (17) pages):

	EXH "F" pages
NOTICE OF HEARING; JUDICIAL NOTICE; NOTICE TO THE COURT OF ERROR; NOTICE TO PLAINTIFF'S ATTORNEY; NOTICE OF POSSIBLE FRAUD; NOTICE OF OBJECTIONS; DEMAND FOR QUASH OF SERVICE OF SUMMONS AND COMPLAINT FOR LACK OF JURISDICTION DATE: January 20, 1984	1 - 2
JUDICIAL NOTICE; NOTICE TO THE COURT OF ERROR NOTICE TO PLAINTIFF'S ATTORNEY NOTICE OF POSSIBLE FRAUD; NOTICE OF OBJECTIONS; DEMAND FOR QUASH OF SERVICE OF SUMMONS AND COMPLAINT FOR LACK OF JURISDICTION	3 - 13
EXHIBIT "A" NOTICE OF PENDING ACTION CASE NO. 41-72-38 ORANGE COUNTY SUPERIOR	14 - 16
PROOF OF SERVICE BY MAIL	17

(a) With these items [Myer] again challenged the proceedings of the

Unlawful Detainer action in, and the jurisdiction of, Respondent Court re-raising the issues as per the above item 6...including:

(1) The insufficiencies of service of the Unlawful Detainer Three-Day Quit Notice and the Summons and Complaint.

(2) The Doctrine of Lis Pendens which subscribes that said notice places the subject property within the jurisdiction of the Superior Court.

(3) The lack of any Landlord/Tenant relationship thus precluding any valid cause of action on behalf of [Pacific].

(4) [Myer's] ownership/occupancy/possession of the subject property.

(b) The hearing was held on January 20, 1984,....

15. On the evening of January 19, 1984, the night before the January 20th hearing, three (3) SUMMONSES and COMPLAINTS (EXHIBIT "G", fifteen (15) pages) were given to [Myer's] spouse by two process servers who at first represented that they were from "The Register" (the newspaper --- they had kept the SUMMONSES and COMPLAINTS folded in one of The Register editions until they were ready to serve them).

(a) Judicial Notice is to be taken of the respective "DOE 1", "DOE 2", and "DOE 3" fictitious name identifiers, as well as the notations of change on two of the SUMMONSES as received (EXHIBIT "G", pages 6 and 11).

(b) [Myer] maintains that after all of his actual notice, as well as his "SPECIAL" Court appearance, [Pacific] KNEW who he was and, therefore, did not

make him a Defendant by this attempted service, constructively or otherwise.

(c) Judicial Notice is also to be taken of the fact that EXHIBIT "G" page 1 shows "DOE 1", and that EXHIBIT "A" page 1 also shows "DOE 1": that is, "DOE 1" was re-served.

(d) Attorney for [Pacific] confirmed the next day in open court that that was the intent: the process had been started over again.

(e) This new service re-started the response time for "DOE 1" such as in accordance with CCP Sec. 1167.3 (Time to Answer) or CCP Sec. 1167.4 (Motion to Quash Service).

(f) This new service started the first responses for "DOE 2" and "DOE 3", since they had not been served previously.

NOTE: [Myer] maintains that he and

members of his household were available for service of process on a reasonable basis, that he made no attempts to avoid service at any time, and that the facts bear this out.

16. No follow-up mail service was made in accordance with CCP 415.20, or any other CCP Section which may be appropriate, for the two (2) "DOES" who were NOT PERSONALLY SERVED.

17. The hearing set for Respondent's Court on January 20th was for [Myer's] noticed hearing (EXHIBIT "F") filed with the Respondent Court on January 13th in accordance with CCP Sec. 1167.4 (Motion to Quash Service - see item 14..., and item 20(a)...of the MEMORANDUM OF POINTS AND AUTHORITIES in support of this DECLARATION.)

(a) [Myer] again appeared "SPECIALLY" and NOT generally.

(b) Attorney for [Pacific] noted in Open Court that [Myer] had been re-served the night before in order to 'forget' the prior service(s).

(c) It appears that subsequent decisions against [Myer] by Respondent were due (at least in part) to [Myer] again submitting NOTICE OF MOTION AND MOTION TO QUASH SERVICE OF SUMMONS FOR LACK OF JURISDICTION (EXHIBIT "K", thirteen (13) pages).

(d) [Myer] maintains that such MOTION was proper since the proceedings had been 're-started'.

(e) At this hearing, [Myer] challenged the jurisdiction of the proceedings of the Unlawful Detainer action, as well as the sufficiencies of service of the Three-Day Notice to Quit in accordance with CCP Sec. 1162 and all SUMMONSES and COMPLAINTS in accordance with CCP

Secs. 415.10 or 415.20, or any other appropriate CCP Section.

(f) Attorney for [Pacific] also served [Myer] with the AMENDMENT TO COMPLAINT (EXHIBIT "H", one (1) page,) which identifies [Myer] as "DOE 2", and not the previously served "DOE 1".

(g) On the AMENDMENT, [Myer's] spouse is identified as "DOE 1", while [Myer's] daughter (name mis-spelled) is identified as "DOE 3".

(h) At the hearing, the Judge questioned the Attorney for [Pacific] that [Myer] 'was not properly before the Court', yet this was not resolved with [Myer]; [Myer] believes that this was prejudicial to him.

(i) At the hearing, [Myer] also presented the broad Doctrine of Lis Pendens, as follows:

(1) The Superior Court has

the jurisdiction over the subject property DURING the pendency of the legal proceedings due to the suit and NOTICE thereof (CASE NO. 41-72-38).

(2) It is the general LAW of the land upon the broad public policy of maintaining the status quo of rights and interests of all parties in property involved in litigation until final adjudication of the action (which action to be adjudicated is Superior Court CASE NO. 41-72-38).

(j) The JUDICIAL NOTICE and DEMAND FOR QUASH was not ruled on. The "Motion to quash denied" is as per the CIVIL MINUTE SHEET (EXHIBIT "I", one (1) page), and, as per Respondent Court: 'it had been denied before, so why grant it now?'.

(k) ....

18. In response to the 'new service'

of the SUMMONSES and COMPLAINTS, item 15, ..., [Myer] filed the following items on January 24, 1984, with Respondent Court (EXHIBIT "K", thirteen (13) pages):

	EXH "K" pages
NOTICE OF MOTION AND MOTION TO QUASH SERVICE OF SUMMONS FOR LACK OF JURISDICTION; DATE: January 27, 1984	1 - 2
MOTION TO QUASH SERVICE OF SUMMONS AND COMPLAINT FOR LACK OF JURISDICTION	3
POINTS AND AUTHORITIES	4 - 7
DECLARATION	8 - 9
NOTICE OF PENDING ACTION (in ORANGE COUNTY SUPERIOR COURT, CASE NO. 41-72-38)	10 - 12
PROOF OF SERVICE	13

(a) [Myer] maintains that this filing was proper in accordance with the 'new service' and CCP Sec 1167.4. (See item 20...of the MEMORANDUM OF POINTS AND AUTHORITIES in support hereof.)

(b) [Myer] re-raised the issues

raised by him on his previous filings, and stressed that due to his purchase and ownership of the subject property which is the ULTIMATE ISSUE, the Respondent Court therefore had no jurisdiction to proceed or to let the Unlawful Detainer remain at bar.

(c) Also, [Myer] maintained that the Doctrine of Lis Pendens placed the subject property in the jurisdiction of the Superior Court via the NOTICE OF PENDING ACTION.

19. On January 27, 1984, [Myer] appeared in Respondent Court in accordance with the EXHIBIT "K" items (item 18, above), but the case was not called.

(a) [Myer] found out that the following decision had been rendered two (2) days previously without a hearing, the day after his EXHIBIT "K" filing, but unknown to him at the time:

> MOTION TO QUASH FILED 1-24-84 IS DISMISSED ON COURT'S OWN MOTION. DEFAULT MAY BE ENTERED AT PLAINTIFF'S DISCRETION.

as per the CIVIL MINUTE SHEET and NOTICE OF ORDER (EXHIBIT "L", two (2) pages).

(b) ....

(c) It also appears that since no replies were filed by [Myer's] spouse and daughter, that Default had (in effect) been taken against them, contrary to CCP Sec. 371 and 369, and even though still within the time for Motion to Quash.

(1) [Myer] advised Respondent of his appearance to also represent the other family members on EXHIBIT "K" page 3, as follows:

> JEREMY MYER also appear for those identified i open court on January 20 1984, as DOES 1 and 3 since they are members o his household/family.

(2) [Myer] relied on CCP Sec. 371 which allows for a husband to defend for his wife.

(3) [Myer] relied on CCP Sec. 369 since his daughter is in a 'trust and beneficiary' relationship to him.

(d) Respondent Court was aware of the Superior Court CASE NO. 41-72-38, ... - has been part of the 'decision' against him: that is, it appears that Respondent Court effectively, but ex-jurisdictionally, adjudicated the title issue.

(1) [Myer] maintains that ...the purchase, ownership, and title issue [is] to be adjudicated in Superior Court according to proper jurisdiction, and it is not pertinent or relevant to the Unlawful Detainer action.

(2) [Myer] maintains that

his RIGHT OF POSSESSION is based on such purchase, ownership, and title issue and, therefore, it is this RIGHT which is appropriate to the Unlawful Detainer action.

(3) [Myer] maintains that the RIGHT OF POSSESSION rests in the results of the action begun in Superior Court (CASE NO. 41-72-38).

(4) [Myer] maintains that Superior Court CASE NO. 41-72-38 must be adjudicated first in order to determine if any proper Unlawful Detainer action can even be effected at bar.

20. On January 27, 1984, [Myer] filed with Respondent Court the following item (EXHIBIT "M", two (2) pages):

JUDICIAL NOTICE
NOTICE OF OBJECTIONS
VIOLATIONS OF DUE PROCESS & RIGHTS

21. On this EXHIBIT "M", [Myer] ob

jected to the VIOLATIONS OF DUE PROCESS, RIGHTS, AND ABUSE OF PROCESS due to not being heard, as well as due to the LACK OF JURISDICTION and that there is no Landlord/Tenant relationship.

22. To the best of [Myer's] knowledge and belief, the file/record of Respondent Court fails to show any Proofs of Service for the item 15,..., SUMMONSES AND COMPLAINTS (EXHIBIT "G"), and it also fails to show any sufficient Proof of Service for the item 3,..., SUMMONS AND COMPLAINT (EXHIBIT "A").

23. [Myer] has acted and appeared "In Propria Persona" in all matters related hereto. [Myer] is not an attorney.

24. [Pacific] has not addressed or proven sufficiencies of service where they have been challenged, and has not asserted or proven any Landlord/Tenant relationship which items are necessary to

the issue of Jurisdicition and proper procedure in the Unlawful Detainer action.

25. On February 10, 1984, [Myer filed, and caused to be served the following items for hearing on February 17, 1984, in Respondent Court:

> NOTICE OF MOTION AND MOTION TO VACATE JUDGMENT CCP Sec. 663, 663a;
>
> DEMAND FOR FINDINGS OF FACT AND CONCLUSIONS OF LAW;
>
> POINTS AND AUTHORITIES;
>
> DECLARATION.

26. On February 10, 1984, the same day as the filing, Respondent's CIVIL MINUTE SHEET and NOTICE OF ORDER show:

> "MOTION TO VACATE JUDGMENT AND FOR FINDINGS DISMISSED ON COURT'S OWN MOTION."

27. I affirm that the foregoing is true and correct.

Dated: June 6, 1984.

Jeremy Myer
Declarant

IN THE SUPERIOR COURT
OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ORANGE

JEREMY MYER, Petitioner, v. THE MUNICIPAL COURT OF THE NORTH ORANGE COUNTY JUDICIAL DISTRICT, Respondent, PACIFIC FEDERAL SAVINGS AND LOAN ASSOCIATION, Real Party in Interest.	)	Civil Action No. 42-14-46 (Munic. Ct. No. A 73032)

Date: June 28, 1984 Dept: 23

MEMORANDUM OF POINTS AND AUTHORITIES
IN SUPPORT OF PURGATORY OATH AND
DECLARATION OF JEREMY MYER
FOR CLARIFICATION OF RECORD

NOTE: EXHIBITS as referenced herein, unless otherwise referenced, were filed with the Court and appropriately delivered to both Respondent and [Pacific's] attorney on January 31, 1984, as an EXHIBITS package of thirteen (13) EXHIBITS, "A" - "M",....Such EXHIBITS are an integral part hereof by their reference.

I

THE SUMMONS IN AN UNLAWFUL DETAINER ACTION MUST BE ISSUED AND SERVED IN THE SAME MANNER AS A SUMMONS IN A CIVIL ACTION (CCP Sec. 1167)

1. There was no personal delivery of the first SUMMONS (and COMPLAINT - EXHIBIT "A").

2. There was no leaving of the first SUMMONS (and COMPLAINT - EXHIBIT "A") with a 'competent member of the household' or in any other lawful fulfillment of service in accordance with CCP Sec. 415.20 (b).

3. There was no first-class mail, postage prepaid, service (OF EXHIBIT "A") which is the REQUIRED COMPANION to item 2, above, in CCP 415.20 (b).

4. There was no other lawful and legal fulfillment of service of the first SUMMONS and COMPLAINT (EXHIBIT "A").

5. Since [the remedy of unlawful

detainer] is purely statutory in nature, it is essential that a party seeking the remedy bring himself clearly within the statute." (Citation)
Baugh v. Consumers Associates, Ltd. (1966)
241 Cal.App.2d 672, 674;
50 Cal.Rptr. 822)

Therefore, the first SUMMONS and COMPLAINT (EXHIBIT "A") was defective, must fail, and no jurisdiction accrued thereto.

II

WHEN THE PLAINTIFF IS IGNORANT OF THE NAME OF A DEFENDANT, HE MUST STATE THAT FACT IN THE COMPLAINT (CCP Sec. 474)

6. [Pacific] was very thoroughly advised by [Myer] well in advance of the Unlawful Detainer SUMMONS AND COMPLAINT issuance, of [Myer's] purchase, ownership and possession of the subject property, and, since [Myer] was not named thereon, ..., said action was precluded from including [Myer] as either a Defendant or

a "Doe".

7. PACIFIC FEDERAL HAD TO BE WELL AWARE OF [Myer's] PRESENCE AND CLAIMS, and failure to specifically name him on the Unlawful Detainer action was both actual and constructive exclusion of him as a Defendant thereto.

III

THERE MUST BE A LANDLORD/TENANT RELATIONSHIP IN AN UNLAWFUL DETAINER ACTION

> "A tenant of real property,...is guilty of unlawful detainer:..." (CCP Sec. 1161).

8. [Pacific] complained of Unlawful Detainer, therefore requiring that a landlord/tenant relationship exist.

9. A complaint in an unlawful detainer proceeding must plead the fact that a landlord/tenant relationship exists between the parties. (Fredericksen v. McCosker (1956) 143 Cal.App.2d 114, 116-118; 299 P.2d 908; and Klein v.

Loeffler (1929) 96 Cal.App. 383, 385; 274 P.373.) The COMPLAINT did not plead the fact that a landlord/tenant relationship existed between [Myer] and [Pacific], or between [Pacific] and any named defendants, and, therefore the COMPLAINT is defective, must fail, and no jurisdiction accrued thereto.

10. Plaintiff can neither assert nor prove that a landlord/tenant relationship existed with the purchaser and owner [Myer], nor between WOELKE and [Myer] AT ANY TIME, nor with anyone else on the COMPLAINT.

11. [Pacific] and Respondent Court have assumed a status relative to [Myer] BY ASSUMED FICTION OF LAW for the Unlawful Detainer action, which status has not existed.

12. It is not up to [Myer] to have to prove any status relative to the

Unlawful Detainer action.

13. [Myer] asserts his claim to the title via purchase at the Trustee's Sale on October 28, 1983, (Orange County Superior Court CASE NO. 41-72-38) and, therefore, his ownership of the subject property.

14. [Myer] asserts that the Unlawful Detainer action is PRECISELY THAT: UNLAWFUL.

IV

SINCE PROPERTY WAS SOLD IN ACCORDANCE WITH CIVIL CODE SECTION 2924, CCP SEC. 1161a SUBPARAGRAPH 3 MUST BE PROPERLY APPLIED

> ...a person who holds over and continues in possession of real property after a three-day written notice to quit the property has been served upon the person, or if there is a subtenant in actual occupation of the premises, also upon such subtenant, as prescribed in Section 1162, may be removed therefrom as prescribed in this chapter:
>
> 3. Where the property has been

sold in accordance with Section 2924 of the Civil Code, under a power of sale contained in a deed of trust executed by such person, or a person under whom such person claims, and the title under the sale has been duly perfected. (CCP Sec. 1161a 3)

15. The subject property was not sold under a power of sale contained in a deed of trust executed by [Myer], or by anyone in [Myer's] household, or by anyone related to [Myer] in any way, "...or a person under whom such person claims".

16. Therefore, [Myer] cannot be removed according to CCP Section 1161a, subparagraph 3.

V

THE THREE-DAY QUIT NOTICE MAY BE DELIVERED PERSONALLY OR LEFT WITH PERSON OF SUITABLE AGE AND DISCRETION, AND SENDING A COPY THROUGH THE MAIL ADDRESSED TO THE TENANT AT HIS PLACE OF RESIDENCE; OR...BY AFFIXING A COPY IN A CONSPICUOUS PLACE ON THE PROPERTY AND ALSO DELIVERING A COPY TO A PERSON THERE RESIDING...; AND ALSO SENDING A COPY THROUGH THE MAIL ADDRESSED TO THE TENANT AT THE PLACE WHERE THE PROPERTY IS SITUATED. (CCP Sec. 1162)

17. ...no "personal" service was effected.

18. [Myer] is not a "tenant" for any purpose hereunder, and [Pacific] is not a "landlord" for any purpose hereunder.

19. There was no follow-up mail service of any sort and, therefore, the COMPLAINTS fail to state any cause of action.

> It is settled, however, that a party may assert at any time that the complaint does not state a cause of action. (Citations) Baugh v. Consumers Associates Ltd., supra, at page 673.
>
> We conclude, therefore, that because of the insufficiency of the [three-day quit] notice served upon the applicant the complaint failed to state a cause of action and the judgment entered upon the complaint may not be sustained. Baugh v. Consumers Associates Ltd., supra, at page 675.

20. Also, Kwok v. Bergren (1982) 130 Cal.App.3d 596, 599-600; 181 Cal.

Rptr. 795, examined the service of the three-day quit notice, and concluded:

> "An unlawful detainer action... is a statutory proceeding and is governed solely by the provisions of the statute creating it." [Citations] "As special proceedings are created and authorized by statute, the jurisdiction over any special proceeding is limited by the terms and conditions of the statute under which it was authorized [citation], and a lessor's action to recover possession of real property is not one for unlawful detainer where he does not comply with the statutory notice requirements [citation]. The statutory procedure must be strictly followed." (Citations)
>
> "Lamey v. Masciotra (1969) 372 Cal.App.2d 709, 713 [78 Cal. Rptr. 344], states that "Under California statutory law a tenant is entitled to a three-day notice to pay rent or quit which may be enforced by summary legal proceedings (Code Civ. Proc. [Sec.] 1161) but this notice is valid and enforceable only if the lessor strictly complies with the specifically described notice conditions. (Code Civ. Proc. [Sec.] 1162.)"

21. Therefore, no jurisdiction

accrued under CCP Sec. 1161a.

22. In reference to Section 6(a)(6) ...of the DECLARATION of which this MEMORANDUM is in support, CCP Sec. 1162 governing Service of Required Notice was NOT complied with.

VI

PETITIONER MADE A SPECIAL APPEARANCE

23. [Myer] was making a "SPECIAL APPEARANCE", and not granting jurisdiction via a general appearance. Such a "SPECIAL APPEARANCE" was appropriate to address Respondent Court on the issue of the Unlawful Detainer so as to properly advise of the situation, otherwise Respondent and [Pacific] would have moved against the "occupants" by Default if no one had appeared.

VII

NO COURT OR OFFICER CAN ACQUIRE JURISDICTION BY DECIDING THAT HE HAS IT

> No Court or officer can acquire jurisdiction by the mere assertion of it, or by falsely alleging the existence of facts on which jurisdiction depends.
> Middleton v. Low (1866)
> 30 Cal. 596, 607)
> (EXHIBIT "N"....)

24. Other related items as noted on EXHIBIT "B" precluded the Unlawful Detainer action from being valid lawfully or legally and, therefore, precluded the Respondent Court from proceeding with any proper jurisdictional base. (Also refer to the DECLARATION of which this MEMORANDUM is in support, item 6,...for EXHIBIT "B" items.)

> When a judge acts in clear absence of all jurisdiction,... the proceeding is coram non judice....Where there is no jurisdiction at all there is no judge; the proceeding is as nothing.
> Manning v. Ketcham (1932)
> 58 F.2d 948, 949. (EXHIBIT "O")

....

IX

PETITIONER CHALLENGED PROCEEDINGS & RESULTS DUE TO LACK OF JURISDICTION, INSUFFICIENCIES OF SERVICE, ETC.

26. [Myer] objects to the proceedings and their results and seeks relief from same since [Myer] somehow 'became' classified as "Defendant" by both Respondent Court (EXHIBIT "D") and the attorney for [Pacific] (EXHIBIT"E"), even though he appeared "SPECIALLY", did not appear FOR or AS a Defendant, and could not be a Defendant as noted previously.

27. EXHIBIT "F", ..., (NOTICE OF HEARING, JUDICIAL NOTICE) challenges these proceedings and results, and other items, in detail, including sufficiencies of service and jurisdiction.

X

NEW SERVICE DID NOT CORRECT INSUFFICIENT SERVICE OF THREE-DAY QUIT NOTICE AND SHOULD HAVE RE-STARTED PROCEDURE

28. Re-service of the SUMMONS and COMPLAINT as per the DECLARATION, item 15,..., did NOT correct the initial step: the deficient service of the original Three-Day Quit Notice (no postage prepaid mail was received).

29. The new service re-began the application of CCP Sec. 1167.3 (Time to Answer) and CCP Sec. 1167.4 (Motion to Quash Service), for "DOE 1".

30. It started the first responses for "DOE 2" and "DOE 3", since they had not been served previously.

31. [Myer] maintains that the insufficiencies and deficiencies of service gave no jurisdiction to the proceedings: that is, the Unlawful Detainer had not been placed before the Respondent Court

properly, and this was made known to Respondent clearly, as the EXHIBITS show.

32. This lack of jurisdiction due to the insufficiencies and deficiencies of service is in addition to the lack of jurisdiction due to [Myer's] purchase and ownership of the subject property, with its attendant Superior Court action and Notice of Pending Action.

XI

IF SUMMONS AND COMPLAINT NOT PERSONALLY SERVED, MUST INCLUDE MAIL SERVICE IN ACCORDANCE WITH CCP 415.20

33. Notice must also be taken of the fact that no follow-up mail service was made in accordance with CCP 415.20, or any other CCP Section which may be appropriate, since two (2) of the "DOES" were not personally served. (This statement does not admit that [Myer's] spouse was served properly even then.)

XII

NEW SERVICE RE-STARTED PROCEDURE
ALTHOUGH NO 3-DAY QUIT NOTICE
HAD BEEN PROPERLY SERVED;
TITLE ISSUE PRECLUDED JURISDICTION

34. The AMENDMENT TO COMPLAINT (EXHIBIT "H") identified all three (3) individuals FOR THE FIRST TIME (as "DOES" or otherwise). (Reference DECLARATION item 17(f) and (g),....)

XIII

WHERE IS THE DEFAULT?
WHO IS IN DEFAULT?
WHERE IS THE JURISDICTION FOR ANY DEFAULT?

35. There was no 'Default' by [Myer], or any member of his household since his replies were timely, proper, and in accordance with CCP Sec. 1167.4 (item 20(a)...,) and also in accordance with CCP Secs. 371 and 369:

> If a husband and wife are sued together, each may defend for his or her own right, but if one

> spouse neglects to defend, the other spouse may defend for that spouse's right also..
> (CCP Sec. 371.)
>
> ...trustee of an express trust, or a person expressly authorized by statute, may sue without joining with him the persons for whose benefit the action is prosecuted. A person with whom, or in whose name, a contract is made for the benefit of another is a trustee of an express trust, within the meaning of this section.
> (CCP Sec. 369.)

(a) All actions which [Myer] is taking on the subject property effectively 'contract', and [Myer's] daughter is a 'beneficiary' with an interest in the results.

(b) Also, as the head of the household and family, [Myer] has the RIGHT to appear and defend for all members served, and that they have the RIGHT for this as well.

(c) [Myer] challenges hereby any denial of such RIGHT as a violation

of Constitutionally guaranteed RIGHTS, both U. S. and California, including the Preambles thereto.

(d) [Myer] maintains that any denial of such RIGHT would effectively be an example of ABUSE OF PROCESS and harassment since each member would be obligated to appear and defend, especially on an essential issue relevant to [Myer] - purchase and ownership of the subject property from which the RIGHT OF POSSESSION accrues - from which the other family members benefit.

(e) And:

> The code establishes the law of this state respecting the subjects to which it relates, and its provisions and all proceedings under it are to be liberally construed, with a view to effect its objects and to promote justice. (CCP Sec. 4.)

XIV

THE TITLE ISSUE;
NO JURISDICTION FOR MUNICIPAL COURT

36. [Myer's] purchase and ownership - that is, the title issue - do not allow for the Unlawful Detainer action:

> ...homeowners cannot be evicted consistent with due process guarantees, without being permitted to raise the affirmative defenses which if proved would maintain their possession and ownership.
> Asuncion v. Superior Court (1980) 108 Cal.App.3d 141,146; 166 Cal.Rptr. 306.

> ...title to the property is inevitably in issue in this unlawful detainer action, and the action is not within the jurisdiction of the municipal court.
> Asuncion v. Superior Court supra, at 146.

> A court has no jurisdiction to hear or determine a case where the type of proceeding or the amount in controversy is beyond the jurisdiction defined for that particular court by statute or constitutional provision. (Citation)
> Abelleira v. District Court of Appeal (1941) 17 Cal.2d 280, 288

Dated: June 6, 1984.

Respectfully submitted,

Jeremy Myer
Declarant, In Pro Per

IN THE MUNICIPAL COURT OF CALIFORNIA
COUNTY OF ORANGE
NORTH ORANGE COUNTY JUDICIAL DISTRICT

PACIFIC FEDERAL SAVINGS & LOAN ASSOCIATION, Plaintiff,	
v.	Civil Action No. A 73032
JOHN RAY WOELKE, and DOES 1-10, inclusive, Defendants.	NOTICE OF APPEAL (Cal Rules of of Ct, Rule 121(a))

NOTICE IS HEREBY GIVEN that Jerem/ Myer, owner/defendant, on behalf of himself and his household, appeals from the default dated August 24, 1984.

Dated: September 19, 1984.

Jeremy Myer
Owner/Defendant
In Pro Per

IN THE MUNICIPAL COURT OF CALIFORNIA
COUNTY OF ORANGE
NORTH ORANGE COUNTY JUDICIAL DISTRICT

PACIFIC FEDERAL SAVINGS & LOAN ASSOCIATION, Plaintiff, v. JOHN RAY WOELKE, and DOES 1-10, inclusive, Defendants.	Civil Action No. A 73032
JEREMY MYER, et al., Appellant, v. PACIFIC FEDERAL SAVINGS & LOAN ASSOCIATION, Appellee.	APPELLANT'S DESIGNATION OF RECORDS (Cal Rules of Ct, Rule 125(a))

NOTICE IS HEREBY GIVEN that JEREMY MYER, Appellant, on behalf of himself and his household, designates as the Record on Appeal all items as part of this CASE NO. A 73032, those of ORANGE COUNTY SUPERIOR COURT CASE NO. 42-14-46 which are an inherent part hereof, and appropriate items of ORANGE COUNTY SUPERIOR

COURT CASE NO. 41-72-38 as noted, including the following:

NOTE: In ORANGE COUNTY SUPERIOR COURT CASE NO. 42-14-46, JEREMY MYER is the Petitioner, this ORANGE COUNTY MUNICIPAL COURT, NORTH ORANGE COUNTY JUDICIAL DISTRICT is the Respondent, and PACIFIC ...is the Real Party in Interest. Therefore, said case is an inherent part of this CASE NO. A 73032. Where no CASE NO. is noted, this CASE NO. A 73032 applies.

[NOTE: In the interest of space in this Appendix to the Petition to the U.S. Supreme Court, only a few of the documents are listed here. The actual list is complete and comprehensive, including all pleadings, orders, civil minute sheets, etc.: just about the entire record. (Those documents from which extracts have been made for the Appendix were included.)]

....

31. REQUEST TO ENTER DEFAULT dated 8/22/84,....

32. NOTICE OF DEFAULT ENTRY dated 8-22-84.

33. REQUEST TO ENTER DEFAULT dated 8/24/84.

34. APPLICATION FOR IMMEDIATE WRIT OF POSSESSION BY CLERK UNLAWFUL DETAINER dated August 24, 1984, including:

a. NOTICE TO QUIT THREE (3) DAYS dated 11/21/83.

b. NOTICE OF SERVICE dated 11-28-83.

c. TRUSTEE'S DEED OF SALE dated November 29, 1983. [Dated eight days after the above Three-Day Notice.]

35. ORDER FOR WRIT OF POSSESSION BY CLERK - UNLAWFUL DETAINER filed AUG 24 1984.

36. WRIT OF EXECUTION dated 8-28-84.

37. MARSHAL'S OFFICE NOTICE TO VACATE Date Mailed August 29, 1984.

38. Complete copy of DOCKET SHEET/ MINUTE ORDERS.

Dated: September 29, 1984.

Respectfully submitted,

Jeremy Myer
Appellant, In Pro Per

IN THE MUNICIPAL COURT
OF ORANGE COUNTY
NORTH ORANGE COUNTY JUDICIAL DISTRICT
STATE OF CALIFORNIA

PACIFIC FEDERAL SAVINGS & LOAN ASSOCIATION, Plaintiff, v. JOHN RAY WOELKE, and DOES 1-10, inclusive, Defendants.	Civil Action No. A 73032
JEREMY MYER, et al., Appellant, v. PACIFIC FEDERAL SAVINGS & LOAN ASSOCIATION, Appellee.	APPELLANT'S NOTICE OF SETTLED STATEMENT (Cal Rules of Ct, Rule 127(a))

NOTICE IS HEREBY GIVEN that JEREMY MYER, Appellant, on behalf of himself and his household, will file a Settled Statement. Dated: September 28, 1984.

Jeremy Myer
Appellant, In Pro Per

IN THE MUNICIPAL COURT OF CALIFORNIA
COUNTY OF ORANGE
NORTH ORANGE COUNTY JUDICIAL DISTRICT

PACIFIC FEDERAL SAVINGS & LOAN ASSOCIATION, Plaintiff,	
v.	Civil Action No. A 73032
JOHN RAY WOELKE, and DOES 1-10, inclusive, Defendants.	
JEREMY MYER, et al., Appellant,	
v.	
PACIFIC FEDERAL SAVINGS & LOAN ASSOCIATION, Appellee.	

APPELLANT'S STATEMENT OF ISSUES
TO BE RAISED ON APPEAL
AND PROPOSED SETTLED STATEMENT

(Cal Rules of Ct, Rule 127(a))

DECLARATION

I

STATEMENT OF ISSUES
TO BE RAISED ON APPEAL

1. [Myer] purchased the subject property at the Trustee's Sale on October 28

1983, and [Pacific] was fully aware of said purchase, especially since [Myer] wrote to [Pacific] and filed suit in Orange County Superior Court (CASE NO. 41-72-38) to enforce his claim.

2. [Pacific] did not validly serve and file a valid Three Day Notice to Quit.

3. [Pacific] had not perfected title to the subject property at the time of issuance of the document which [Pacific] relied on as the Three Day Notice to Quit.

4. [Pacific], therefore, had no cause of action with which to pursue the Unlawful Detainer action.

5. None of the Summonses and Complaints were served properly, therefore [Pacific] had no cause of action with which to proceed.

6. JOHN RAY WOELKE was the only

named Defendant initially and [Myer] made it very clear that he had never had any relationship with said person at any time, that he was not WOELKE, and that since [Pacific] had known who [Myer] was via appropriate prior correspondence and the Superior Court action CASE 41-72-38 filed previously, that [Pacific's] failure to name [Myer] as a Defendant at the time directly on any of the Summonses and Complaints was constructive acknowledgement that [Myer] was indeed not a proper Defendant: [Pacific's] foreknowledge based on [Myer's] direct communications, coupled with [Pacific's] failure to use such knowledge constructively, waived [Pacific's] subsequent drawing of [Myer], or anyone in his household, into the Complaint.

7. The Court and [Pacific] proceeded ex-jurisdictionally since [Pacific]

was not clearly within the scope of the summary proceedings of the Unlawful Detainer, WHICH IS AN ABSOLUTE REQUIREMENT FOR SUCH SUMMARY PROCEEDINGS:

(a) [Myer's] purchase was a title issue beyond the jurisdiction of the Municipal Court.

(b) [Myer's] Superior Court suit (CASE NO. 41-72-38) and publicly recorded Notice of Pending Action placed the subject property beyond the Municipal Court's jurisdiction in accordance with the well-established doctrines of Lis Pendens and that there can be no rule-making or legislation which abrogates rights.

(c) There were no valid Three Day Notice to Quit and Summonses and Complaints served and filed.

(d) There was no landlord/tenant relationship between [Myer] and

[Pacific], constructive or otherwise, and [Pacific] never asserted or proved any such relationship once [Myer] raised the issue.

8. [Myer] went before the Court twice under "Special Appearance" to explain the situation (including his purchase), to advise the Court that it was proceeding ex-jurisdictionally, and in order to Quash the proceedings for LACK OF JURISDICTION. Once jurisdiction is challenged, it must be proven, it cannot simply be assumed.

9. [Myer's] Motions / Demands to Quash Service of Summons and Complaint and the proceedings for Lack of Jurisdiction were denied by the Court when, in fact, the Court had no jurisdiction to proceed due to the foregoing.

10. [Pacific] re-served the Summonses and Complaint, again without complying

with proper service. Such re-service was prima facie acknowledgment of the insufficiencies of the prior services (upon which the Court had dismissed [Myer's] Motions).

11. [Myer] again filed a Motion to Quash, in response to this service, and this was dismissed on the Court's own motion without a hearing, albeit that the intent of the [Pacific] was to re-start the process. THUS, [Myer] was not only never served properly, he was not heard by the Court on the albeit invalid service of process upon which the Court and [Pacific] proceeded to the ultimate conclusion of the 'eviction' of [Myer] and his household from the subject property via the Unlawful Detainer summary proceedings, yet Eviction and Unlawful Detainer are different proceedings.

12. [Myer], continuing to proceed as

Owner, In Propria Persona, filed a Motion to Vacate Judgment which was also dismissed on the Court's own motion.

13. [Myer] has notified the Court and [Pacific] and [Pacific's] attorney of THE CONTINUAL AND FLAGRANT ERRORS AND ABUSES OF PROCESS with JUDICIAL NOTICE, NOTICE TO THE COURT OF ERROR, NOTICE TO [Pacific's] ATTORNEY, NOTICE OF POSSIBLE FRAUD, NOTICE OF OBJECTIONS, DEMAND FOR QUASH OF SUMMONS AND COMPLAINT FOR LACK OF JURISDICTION, DECLARATION, VIOLATIONS OF DUE PROCESS AND RIGHTS, and so forth, as the record bears out, BUT ALL TO NO AVAIL.

14. [Myer] proceeded into the Orange County Superior Court (CASE NO. 42-14-46) in which he documented all of the violations again:

(a) In the proceedings for a WRIT OF MANDATE/PROHIBITION.

(b) In the later proceedings for ABATEMENT OR IN THE ALTERNATIVE STAY OF PROCEEDINGS.

15. [Pacific] has tried to correct the record for the invalid service of the Summonses and Complaint on January 19, 1984, via a DECLARATION OF LINDA S. NUNEZ RE LOST OR MISPLACED ORIGINAL SUMMONS, ETC., dated August 21, 1984, including a DECLARATION OF DENNIS SANCHEZ dated January 20, 1984, and other documents:

(a) [Myer] maintains that this is a FRAUD and he also addresses this in [Myer's] DECLARATION which is...included herein by its reference.

(b) [Myer] asserts that [Pacific's] attorney has resorted to this FRAUD to attempt to correct the record since [Myer] HAS CONTINUALLY MAINTAINED THAT THERE HAS NEVER BEEN PROPER SERVICE OF ANY DOCUMENTS WHICH WOULD HAVE BROUGHT

THIS MATTER UNDER THE JURISDICTION OF THE MUNICIPAL COURT, notwithstanding THE FACT that the TITLE ISSUE and value placed on the property by [Pacific] precluded any jurisdiction from accruing to the Municipal Court.

(c) [Myer] re-documented all of the violations in hearings in the Orange County Superior Court, CASE NO. 42-14-46.

16. [Pacific] proceeded with the 'eviction' of [Myer] and his household via a Writ of Execution based on a decision of the Superior Court (CASE NO. 42-14-46) dated August 17, 1984. This decision was based on a decision of the Superior Court (CASE NO. 41-72-38) dated August 21, 1984 (and filed August 22, 1984). Thus, the Municipal Court action to 'evict' [Myer] and his household was invalid both as to all of the invalidities of the prior errors and Municipal

Court proceedings, and since the Superior Court decision upon which it was based was itself based upon another Superior Court case decision which had not been made at the time of its issuance: there was no valid decisional jurisdiction for the Municipal Court or the [Pacific] to have proceeded with.

17. [Pacific], by pursuing the Unlawful Detainer action in the Municipal Court against [Myer] and his house-hold, created a situation of harassment, multiplicity of suit, and vexatious action against [Myer] and his household, and this was well-documented in Orange County Superior Court action CASE NO. 42-14-46.

II

PROPOSED SETTLED STATEMENT

There being no court reporter at many of the hearings, Appellant submits this PROPOSED SETTLED STATEMENT. ....

III

[MYER'S] CONCLUSIONS

[Myer], by virtue of his purchase of the subject property at the Trustee's Sale, has THE RIGHT to same, and the Unlawful Detainer action brought on by [Pacific] was invalid, a harassment, and a needless, vexatious multiplicity of action.

[Pacific] had not perfected title prior to sending out the Three Day Notice to Quit, and said Notice, as well as all Summonses and Complaints were not served in accordance with the Code of Civil Procedure.

There was no landlord/tenant relationship between [Pacific] and [Myer], constructive or otherwise.

Accordingly, the Unlawful Detainer action was itself unlawful and illegal since it was not within the very precise

scope of said proceedings which, by their nature being summary, REQUIRE absolute conformity WITHIN --- not exceeding --- the statute.

Dated: October 17, 1984.

Respectfully submitted,

Jeremy Myer
Appellant, In Pro Per

III

APPELLANT'S DECLARATION

STATE OF CALIFORNIA, COUNTY OF ORANGE

I, JEREMY MYER, do depose and say:

1. I am the Appellant in the above-entitled action.

2. I have periodically inspected the Municipal Court file in this CASE NO. A73032 from its inception until late September, 1984.

3. At no time prior to August 22, 1984, has there appeared in said file any proper proofs of service by mail or

declarations as to such mail delivery which is requisite by the statutes where any service requiring personal service, but such service being made to a third person, requires a follow-up delivery via the mail.

4. The record now shows a DECLARATION OF LINDA S. NUNEZ RE LOST OR MISPLACED ORIGINAL SUMMONS, APPLICATION TO USE COPY OF ORIGINAL SUMMONS IN PLACE OF ORIGINAL, ORDER THEREON, filed with the Court on August 22, 1984. Attached to this [NUNEZ] DECLARATION are:

(a) Copy of a SUMMONS dated December 19, 1983.

(b) Original of DECLARATION OF DENNIS SANCHEZ dated January 20, 1984.

(c) PROOF OF SERVICE on defendant LISA MYER dated January 20, 1984.

(d) PROOF OF SERVICE on defendant MRS. JEREMY MYER dated January 20,

1984.

(e) DECLARATION OF ATTEMPTED SERVICE by S. HORVATH dated January 19, 1984.

5. [Myer] believes said DECLARATION OF LINDA S. NUNEZ and the attachments thereto are a fraudulent attempt by said NUNEZ to correct some of the invalid services and, in fact, by this attempt to correct them, said Attorney Nunez in fact acknowledges that the prior services were insufficient.

6. Judicial Notice is to be taken of the fact that these documents were not in the file previously, and neither have they been received by [Myer] previously, and that they now enter the file after [MYER'S] CONTINUAL AND LOUD PROCLAMATIONS AS TO THE INSUFFICIENCIES OF SERVICE NOT ONLY AS TO THIS PARTICULAR SUMMONS AND COMPLAINT, BUT ALSO AS TO ALL OF THE REST

AS CLEARLY AND CONTINUALLY DOCUMENTED IN THIS MUNICIPAL COURT CASE NO. A73032 AND THE ORANGE COUNTY SUPERIOR COURT CASE NO. 42-14-46.

7. Judicial Notice is to be taken of Judge Moore's signing the ORDER on August 24, 1984.

8. I affirm that the foregoing is true and correct to the best of my knowledge and belief.

Dated: October 17, 1984.

Jeremy Myer
Declarant